



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

April 6, 1994

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

Robert L. Morgan
State Engineer

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Guy Taylor, Owner
Guy Taylor and Naomi Taylor Family Trust
HC 63 Box 40
Duchesne, UT 84021

Dear Mr. Taylor:

This letter is in response to our telephone conversation yesterday and the letter which you faxed to me yesterday. I have reviewed the information Bob Leake sent to me; unfortunately, I was not able to locate the file of copies that you indicated you left in our office.

It seems the major point of misunderstanding between you and our office concerning the various segregations of Certificate 812 relates to the definition of a "share". Webster defines a share as "any of the equal portions into which property or invested capital is divided". Therefore, a share has no intrinsic value or meaning by itself, but is defined by its relationship to the total number of shares that a certain property or capital has been divided.

In the case of Cert. 812, it appears that the NW 1/4 SW 1/4 and the S 1/2 SW 1/4 have been treated as separate parcels since 1928. The chain of title for the NW 1/4 SW 1/4 refers to 40 "shares" being transferred with the parcel in 1943. The chain of title for the S 1/2 SW 1/4 refers to 80 "shares" being transferred with the parcel to you in 1963. Therefore, it appears there were a total of 120 "shares" associated with Cert. 812. This would infer that you received 2/3 of the water right or enough water for $.6666 \times (104.9 \text{ acres}) = 69.93 \text{ ac.}$

Certificate 812 describes the irrigated land included in the water right by a meets and bounds description. When this boundary is plotted and superimposed on section 12, T3S, R5W, USB&M, 69.2 acres of the total described irrigated land fall within the S 1/2 SW 1/4. This corresponds almost exactly with the amount of irrigated land calculated above by the "shares" method.

The deed transferring the S 1/2 SW 1/4 to you refers to "all water rights shown in certificate #812 of the Murray White canal, pertaining to said property." The standard method for determining appurtenant certificated water rights when a property is divided into parcels is according to the number of irrigated acres

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Continued -page 2-

associated with each parcel. Therefore, the Vernal office used this method in calculating the amount of your water right described in our letter of March 30, 1994.

I believe the calculation made by the Vernal office is appropriate and find no reason to suggest a change. As we stated in our March 30 letter, this is not an adjudication of the water right but merely our interpretation of the status of the title on certificate no. 812 for distribution purposes. Any further title determination related to certificate no. 812 will need to be made by the court.

I hope this will clarify our office's position on the issue.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lee H. Sim".

Lee H. Sim, P.E.
Assistant State Engineer
for Distribution

cc: 5 Bob Leake
5 John Swasey